

#### **J. VEHICLE EXCEPTION**

As early as 1925 (*Carroll v U.S.*), the U.S. Supreme Court has recognized the "automobile exception" to the warrant requirement. Over the years, this exception has been expanded to include boats, airplanes, motor homes and other motorized vehicles. This exception is allowed if probable cause was shown that items of evidence were in the vehicle and it was not practicable to obtain a warrant. The Court reasoned that due to its mobility, the vehicle could be moved prior to the officer obtaining a warrant. The Court, of course, reviews the "exigency of the circumstance" in each case and often suggests, if possible, the car be seized and held until a warrant is obtained.

In these cases, all that is waived is the prior approval of a judge or magistrate. The officer must later justify that the warrantless seizure, and subsequent search, was based on probable cause.

Remember – seizure and search are two separate operations. You may have occasion to seize the vehicle and then apply for a warrant to search it.

To date, the Alaska Supreme Court has not totally recognized the automobile exception to the warrant requirement. The Court has addressed several cases involving seizures made from automobiles, but decided that these seizures were made as a result of other recognized exceptions such as incident to arrest, plain view, emergency, etc. Although mobility of the vehicle was addressed, it is still considered a subcategory of other exceptions.

**VEHICLE EXCEPTION TO WARRANT REQUIREMENT**  
**SELECTED CASES**

**CHAMBERS v Maroney** 399 US 42 (Warrantless Search of Vehicle) (no bulletin). If probable cause exists to search an automobile, it is reasonable under the Fourth Amendment to: 1) either seize and hold the automobile before presenting the probable cause to a magistrate; or 2) carry out an immediate search without a warrant.

**South Dakota v OPPERMAN** (Inventory Search) bulletin no. 8. Although the U.S. Supreme Court upholds "inventory exception" to the warrant requirement, the Alaska Supreme Court does not.

**DAYGEE v State** (Plain View Search of Vehicle) bulletin no. 10. Upon arrest of the driver and passenger of the vehicle, police saw drugs on the back seat and later discovered and seized additional drugs in a container. Search upheld as incident to arrest.

**CLARK v State** (Vehicle Search - Exigent Circumstances) bulletin no. 12. Although three individuals were suspected of being involved in the sale of drugs, only two were arrested and the whereabouts of the third was not known. The suspect's rented vehicle, parked on a public street, was seized and searched. A quantity of drugs was discovered in the glove compartment and subsequently introduced as evidence at the defendants' trial. The Court upheld the warrantless search of the vehicle due to the exigent circumstance that the third suspect whose whereabouts were unknown could have returned to the vehicle and destroyed the evidence.

**State v DANIEL** (Inventory Search of Impounded Vehicle) bulletin no. 19. Defendant was arrested for DWI and transported from scene by the arresting officer. While the defendant was en route to jail, a second officer conducted an inventory search of the impounded vehicle (as required by the State Administrative Rules per the Commissioner of Public Safety). During the inventory search, a firearm along with a quantity of drugs was discovered in a closed unlocked attaché case located on the rear seat. The Court ruled this evidence inadmissible citing that the Administrative Rule which requires such warrantless searches violates the Alaska Constitution, specifically Article 1, Sections 14 and 22, which governs unlawful searches.

**Anchorage v COOK** (Emergency Search of Vehicle) bulletin no. 26. Evidence of intoxication and seizure of person upheld when police discovered the individual slumped over the wheel and, upon removal from the vehicle, it was noted that he was under the influence.

**LUPRO v State** (Search of Abandoned Vehicle) bulletin no. 29. After a "hit and run" fatality accident, the defendant abandoned his vehicle by pushing it into a ravine. The subsequent seizure several days later of trace evidence adhering to the vehicle was proper even though no warrant was obtained.

**LACY v State** (Warrantless Seizure - Person/Evidence - By Roadblock) bulletin no. 32. Police made investigatory stop of vehicle and developed probable cause to arrest.

**HINKEL v Anchorage** (Search of Purse - Incident to Arrest) bulletin no. 41. After arrest for DWI, the individual was handcuffed and locked in a police car. Subsequent search of her purse (located in her vehicle) yielded a gun, which was ruled admissible as evidence since it was seized as incident to arrest.

**New York v BELTON** (Search of Vehicle - Incident to Arrest) bulletin no. 50. Upon arrest of subject, the coat removed from front seat of vehicle was searched and drugs were discovered.

**U.S. v ROSS** (Warrantless Search of Vehicle) bulletin no. 59. In this case, the U.S. Supreme Court reaffirmed the automobile exception to the warrant requirement. The police received information from an informant of the name of an individual allegedly involved in drug trafficking. When the police observed the suspect driving on a public street, he was stopped, his vehicle searched (including the trunk) and drugs and other evidence were seized. The Court ruled the evidence admissible since there was ample probable cause and it was not practical to obtain a warrant. The prior approval of the magistrate was waived.

**DUNN v State** (Warrantless Seizure of Jacket) bulletin no. 63. Investigatory stop of vehicle provided probable cause to arrest passenger. Subsequent search of jacket found in vehicle and seizure of evidence from pocket thereof upheld.

**Texas v BROWN** (Plain View Search of Automobile) bulletin no. 68. Drivers license checkpoints established by police to stop all vehicles and examining officer recognized (immediately apparent) a balloon commonly used as method of transporting drugs.

**California v CARNEY** (Automobile Exception of Warrant Requirement) bulletin no. 94. The search of an entire motor home was upheld because the police had probable cause to believe drug transactions were taking place in the motor home that was parked in a public parking lot.

**U.S. v JOHNS** (Delayed Warrantless Search) bulletin no. 91. It is not necessary for a search of a vehicle to be contemporaneous with its seizure if the seizure was lawful.

**CRUSE v State** (no bulletin). Inventory exception to warrant requirement is not recognized by the Court, even though it is based on police policy. Police performed an inventory search of a vehicle based on police policy and applied for a search warrant to recover what they discovered. The police did not inform the magistrate about the inventory search. The Alaska Supreme Court upheld the warrant, but stated that police should not withhold information from a judge when obtaining a warrant.

**COOPER v California** 386 US 58 (Forfeited Vehicle) (no bulletin). Vehicle is seized by government because of its illegal use in transporting drugs (by statute). Search conducted weeks later did not require a warrant. Theory - a warrant is not required to search your own property.

**MATTERN v State** (Protective Search) (no bulletin). Officers stopped a vehicle suspected of being involved in a burglary, looked in the back and observed items later identified as the stolen goods. The Court ruled the evidence admissible because the officers, for their own protection, had a right to look in the van for possible suspects and, in doing so, inadvertently discovered evidence that was in their plain view.

**CARROLL v U.S.** 267 US 132 (Vehicle Exception) (no bulletin). The U.S. Supreme Court first recognized the automobile exception to the warrant requirement in this case. The Court cited the mobility of the automobile and the need to take immediate action. In this case, the vehicle was used to transport bootlegged alcohol.

**New York v CLASS** (Entry into Vehicle to Examine Vehicle Identification Number) bulletin no. 102. Police had made a lawful vehicle stop for traffic violations. Second officer attempted to obtain VIN from dashboard; however, papers on the dashboard obscured the VIN. Entry into the vehicle to examine VIN was proper and evidence (gun) observed and seized was in plain view.

**CHRISTIANSON v State** (Investigatory Stop of Vehicle With No Imminent Public Danger) bulletin no. 112. Consent to search by non-owner driver was proper. No requirement that imminent public danger existed or recent serious harm to person or property had occurred to justify stop.

**California v ACAVEDO** (Search of a Vehicle and Containers with Probable Cause) bulletin no. 185. Where police have probable cause to believe evidence or contraband is located in a vehicle, they may search the vehicle and containers found within, without a search warrant as a "vehicle exception" to the warrant requirement. Police must establish that they had probable cause prior to the search. If a "locked container" (e.g. brief case) is found during the search, you should seize it and then apply for a warrant to search it. This case reinforces other cases that deal with the "vehicle exception" to the warrant requirement, the most recent being US v Ross (Legal Bulletin no. 59).

**Florida v JIMENO** (Consent to Search Vehicle) bulletin no. 159. A police officer stopped a vehicle for a traffic violation and asked the driver for consent to search his vehicle (because he earlier overheard the driver arranging a drug transaction on a public telephone). The driver consented to the search and the officer opened a folded brown paper bag found inside the vehicle that contained drugs. The driver did not place any

limitations on the search and it was found to be reasonable to open the bag, but mentioned that if the container were locked, further consent to search or probable cause to justify its seizure while you apply for a search warrant would be necessary.

**Maryland v PRINGLE** (Consent By Driver/Owner Of Vehicle Leads To Arrest Of Passenger) bulletin no. 275. Baltimore Police stopped vehicle occupied by three men. The owner/driver gave permission to search the vehicle. Drugs were found in the armrest of the rear seat; all three men were arrested. Pringle, who was a front seat passenger, later admitted that the drugs belonged to him. Court ruled that a reasonable police officer could conclude that Pringle both solely or jointly had possession of the drugs, and consequently had ample probable cause to arrest him.

**KNOWLES v Iowa** (Search of Vehicle Incident to a Traffic Citation) bulletin no. 230. A vehicle was stopped and the driver issued a citation for speeding. The vehicle was searched and drugs were found. The vehicle was illegally searched because the officers did not have the consent of the owner, probable cause, nor incident to custodial arrest. The Iowa legislature enacted a statute that allowed police to search a vehicle as an "incident to a traffic violation." The U.S. Supreme Court ruled that this statute violates the U.S. Constitution.

**Wyoming v HOUGHTON** (Search of Passenger's Personal Belongings Inside a Lawfully Stopped Vehicle) bulletin no. 232. A vehicle was stopped for speeding. The driver had a syringe in his pocket and admitted it was used for taking drugs. During a search of the vehicle, they discovered drugs inside the purse of a passenger. The search was upheld. Since they had probable cause to search the vehicle, they also had cause to search everything inside the vehicle that may conceal the object of the search.